

## BEFORE THE VIRGINIA STATE CORPORATION COMMISSION

Ex Parte: IN THE MATTER CONCERNING  
THE PROVISION OF DEFAULT SERVICE  
TO RETAIL CUSTOMERS UNDER THE  
PROVISIONS OF THE VIRGINIA  
ELECTRIC UTILITY RESTRUCTURING  
ACT

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\* CASE NO. PUE-2002-00645  
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### COMMENTS OF CONSTELLATION NEWENERGY, INC. TO STAFF REPORT

COMES NOW Constellation NewEnergy, Inc. (hereinafter "CNE"), by and through its attorneys, Thomas W. Kinnane and the law office of Kinnane & Associates, Ltd., and files, pursuant to the Commission's Order Establishing Investigation of December 23, 2002, these Comments to the Staff Report dated May 1, 2003 regarding the provision of default service to retail customers under the provisions of the Virginia Electric Utility Restructuring Act.

CNE largely concurs with the overall conclusions of Staff in this proceeding. Specifically, CNE agrees that the Commission does not need to take any specific action with respect to establishing default service for retail customers in the service territories of the electric utilities in light of the significant barriers to retail choice in Virginia during the existing transition period. CNE reiterates that the obstacles listed in the Staff Report need to be resolved before competitive markets will be able to offer meaningful alternatives to the incumbent utilities. Specifically, the capped rates, wires charge structure for the recovery of still unquantified stranded costs, lack of RTE membership, and the retail electricity supply cost components in Virginia need to be addressed in order for competition to flourish in the Commonwealth. To this end, CNE agrees with staff that discussions on default service should continue as these barriers to competition are removed over time. CNE concurs that Staff's continued development of appropriate default service mechanisms must permit a more detailed vetting of the alternatives that have been discussed among the work group members to date.

While there is no reason to foreclose any future possibilities at the present time, as a matter of clarification, CNE would note in these comments that it does support the following characteristics for default service: (i) that some elements of default service will need to conform geographically to the incumbent utilities service territory, (ii) that default service needs to be compatible with customer rate classifications (iii) that meaningful opportunities for competitively bid default service will be difficult until the utilities have been integrated into a Regional Transmission Entity, and (iv) that consistency among the competitive procurement processes developed for each utility will promote regulatory and legal efficiencies and promote competition.

### CONCLUSION

CNE appreciates the opportunity it has been afforded by the Commission to comment on and participate in the development of default service pursuant to the Virginia Electric Utility Restructuring Act. As requested in its Staff Report, CNE stands ready to offer its national experience in default service development to the working group in any subsequent phase of this investigation.

Respectfully submitted,

**CONSTELLATION NEWENERGY, INC.**

By: 

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